

Message Text

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ORIGIN OES-07

INFO OCT-01 ARA-10 ISO-00 L-03 FEA-01 ACDA-07 CIAE-00
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ERDA-05 SS-15 SP-02 PM-04 /092 R

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L/OES: C SIEGAL
USERDA: G HELFRICH (INFO)
ARA/ECA: R ELTZ

-----003107 300457Z /21

R 300029Z JUN 77
FM SECSTATE WASHDC
TO AMEMBASSY BRASILIA
INFO AMCONSUL RIO DE JANIERO
AMCONSUL SAO PAULO

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E.O. 11652:N/A

TAGS:TECH,ENRG,BR

SUBJECT: BRASILIA'S REQUEST FOR HIGHLY ENRICHED URANIUM
(HEU)

REFERENCE: (A) BRASILIA 4668; (B) BRASILIA 4288;
(C) BRASILIA 5311

1. EMBASSY REQUESTED TO INFORM APPROPRIATE OFFICIALS AT
CNEN THAT ERDA FILED A PETITION TO INITIATE INVOLUNTARY
BANKRUPTCY PROCEEDINGS AGAINST U.S. NUCLEAR, INC. (USN),
ON MAY 4, 1977, IN THE DISTRICT COURT FOR THE EASTERN
DISTRICT OF TENNESSEE. USN FILED ITS ANSWER TO THE ERDA
PETITION ON MAY 25, 1977. NO FURTHER COURT ACTION IS
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EXPECTED UNTIL AFTER ERDA SECURES TWO ADDITIONAL CREDITORS
TO JOIN IN THE CREDITORS' PETITIONS, AN ACTIVITY THAT IS
NOW IN PROGRESS. IF ERDA CANNOT FIND TWO MORE CREDITORS TO
JOIN ITS PETITION WITHIN A REASONABLE TIME, THE COURT MUST
DISMISS THE PETITION.

2. THE ERDA PETITION WAS FILED, FOLLOWING MORE THAN A YEAR

OF SERIOUS USN FINANCIAL PROBLEMS, AS A RESULT OF USN
CEASING FUEL FABRICATION OPERATIONS (ON OR ABOUT APRIL 15,
1977), WHILE STILL OWING THE U.S. GOVERNMENT (ERDA) IN
EXCESS OF ONE MILLION DOLLARS FOR THE SUPPLY OF ENRICHED

URANIUM. PRIOR TO ERDA'S PETITION, THE U.S. NUCLEAR
REGULATORY COMMISSION TOOK POSSESSION OF ALL SPECIAL
NUCLEAR MATERIAL AT USN'S FABRICATION FACILITY. IT IS
OUR UNDERSTANDING, HOWEVER, THAT USN CEASED OPERATIONS
WITHOUT HAVING PERFORMED ANY ACTUAL WORK IN CONNECTION
TO CNEN'S FUEL FABRICATION REQUEST FOR WHICH CNEN HAD
SENT DOLS. 148,000 TO USN TO BE PUT IN TRUST FOR PAYMENT
TO ERDA FOR HEU.

3. ONE OF THE MAIN ISSUES TO BE DECIDED BY THE BANKRUPTCY
COURT IS WHETHER THE FUNDS WHICH USN RECEIVED FROM THE
CNEN (AS WELL AS FROM OTHER NON-U.S. ORGANIZATIONS HAVING
OR SEEKING FUEL FABRICATION CONTRACTS WITH USN),
WERE OR ARE HELD "IN TRUST" OR WERE, IN FACT, ADVANCE PAY-
MENT THAT BECAME A PART OF THE GENERAL ASSETS OF USN. IF
THE FUNDS WERE "IN TRUST," CNEN MAY HAVE RIGHT TO THEIR
RETURN. IF THE FUNDS ARE PART OF USN'S GENERAL ASSETS,
THE CNEN MAY FILE A CLAIM AS AN UNSECURED CREDITOR AGAINST
USN TO SHARE IN THE DISTRIBUTION OF THE BANKRUPT FIRM'S
ESTATE, IF ANY ESTATE REMAINS FOR UNSECURED CREDITORS
AFTER PAYMENT IS MADE FIRST TO SECURED CREDITORS AND
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SECOND TO PRIORITY CREDITORS.

4. IN VIEW OF THE COMPLEXITY OF THE ISSUES RELATING TO
ERDA'S PETITION TO INSTITUTE BANKRUPTCY PROCEEDINGS
AGAINST USN IT IS STRONGLY SUGGESTED THAT THE CNEN ENGAGE
THE ADVICE OF LEGAL COUNSEL AS TO HOW IT MAY BEST PROTECT
ITS INTERESTS.

5. WITH REGARD TO CNEN REQUEST FOR COMMENTS ON HEU
JUSTIFICATION PROVIDED IN BRASILIA 4288, AND ON PHYSICAL
SECURITY PLANS SUBMITTED ON MARCH 21, 1977, PLEASE ADVISE
CNEN THAT THESE MATTERS ARE CURRENTLY UNDER CONSIDERATION
BY CONCERNED U.S. GOVERNMENT AGENCIES.
VANCE

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NNN

Message Attributes

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